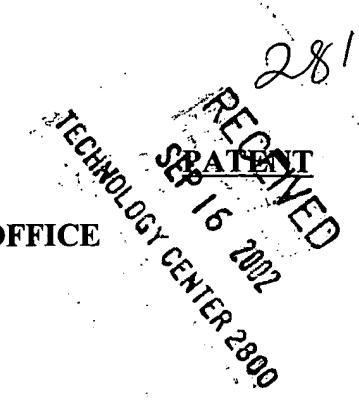




Docket No.: 50090-290



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Keiichiro WAKAMIYA, et al.

Serial No.: 09/818,906

: Group Art Unit: 2811

Filed: March 28, 2001

: Examiner: N. Parekh

For: SEMICONDUCTOR DEVICE

REQUEST FOR RECONSIDERATION

Commissioner for Patents
Washington, DC 20231

Sir:

Reconsideration of the rejections imposed in the Office Action dated June 14, 2002 is solicited in light of the following remarks.

REMARKS

Claim 1 was rejected under the first paragraph of 35 U.S.C. §112 for lack of adequate enabling support.

In the statement of the rejection, the Examiner asserted that specification does not enable how to form a plurality of layers of the same material having different hardnesses.

This rejection is traversed as **legally erroneous**.

Lack of enablement under the first paragraph of 35 U.S.C. §112 is a question of law. *U.S. Steel Corp. v. Phillips Petroleum Co.*, 865 F.2d 1247, 9 USPQ2d 1461 (Fed. Cir. 1989); *U.S. v. Telecommunications Inc.*, 857 F.2d 778, 8 USPQ2d 1217 (Fed. Cir. 1988). In